

NEWSFLASH

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BAN TACS Accountants Pty Ltd

BAN TACS
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Welcome to the **BAN TACS News Flash**

Our aim is to provide short but succinct updates on all tax issues

Column by Noel Whittaker

Every day I receive emails along the lines of "should I convert my super to cash, and then re-enter the market when it turns or should I hang in there and wait for the upturn?". Of course, the best strategy depends on your individual circumstances, but if you decide to move your hard-earned money to cash now you will be forced to accept an interest rate at 4% at most.

At that rate it would take at least 25 years just to recover your losses.

I use the term "at least", because the income from the interest bearing account will be fully taxable. In contrast, the capital gains that will happen when the share market rebounds are tax free because you are merely recouping capital losses, and the income from most share portfolios comes by way of franked dividends which are tax free for anybody earning less than \$80,000 a year.

Keep in mind that there have been nine major bear markets in Australia, and it has taken between 15 months and just under eight years for portfolio values to be restored - the average is three and a half years. And when markets do bounce, the size of the bounce is large - averaging 32% in the first year over the last nine bear markets. The next bounce may well be even bigger because of the weight of money sitting on the sidelines. In Australia alone self managed super funds are holding over \$140 billion in cash, and in America cash type assets now exceed \$US5 trillion. Most of this money will eventually find its way into the share market.

It's important to appreciate that picking the top or bottom of any market is not as easy as it sounds. Since March 9th our market has leapt by more than 15%, yet commentators cannot agree on whether this is the start of a sustained recovery or merely a glimmer of hope before the market falls again. Only time will tell.

Investors now have a choice. They can stick with their portfolios and enjoy a running yield of better than 6% per annum while they await the upturn, or put their money in the bank and condemn themselves to waiting 25 years for their portfolios to recover.

Noel Whittaker is a director of Whittaker Macnaught, a division of St Andrew's Australia. This advice is general in nature and readers should seek their own expert advice before making financial decisions.

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David Thompson or Julie Lockeridge from Whittaker Macnaught is regularly available to see clients in our office.

Government Encourages Use Of Annual Leave

Many readers have probably already heard that the Labor Government is encouraging workers to take their annual leave and holiday in Australia. Their research shows that the average worker has 4 weeks leave accrued and the Government wants to see this used up to help stimulate the economy. Of course many workers in fear of losing their jobs see their annual leave as a safety buffer so there is not much chance of this stimulus having an effect. Rudd might be an economic conservative but he is still a member of the Labor party so his next stimulus initiative is to increase the annual leave entitlement under all awards to 6 weeks.

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Keeping Saleable Stock On The Shelves

Many retail outlets seem to be reacting to the economic downturn by reducing the stock they purchase. They anticipate a drop in sales so carry less stock. The trouble is this could become a self fulfilling prophecy because customers unable to get what they want will begin to shop elsewhere.

When ordering stock bear in mind that the items no longer on the shelves are those that your customers buy and the ones left maybe dead stock. If you must reduce stock try to carry the same items just lower quantities.

SMSFs And 5% In-house Asset Limit

Other than commercial real estate used in the members' business, SMSF cannot hold more than 5% of its assets in in-house assets. For example equipment it might lease to the business. This calculation is done each accounting period based on the market value of all the fund's assets. This can be a bit of a problem if the fund's assets have decreased dramatically due to the global financial crisis.

Exceeding the in-house asset limit is a serious offence and can lead to a SMSF being declared non complying. Fortunately you have 12 months to fix the problem. All you will have to do to keep your auditor happy is have a strategy in place that will correct the problem within 12 months. It is best to document this with a minute. Strategies can include reducing the amount of funds the SMSF has tied up in in-house assets and making contributions to the SMSF that are sufficient to bring the ratio back to 5%

30% Investment Allowance and Cars

Refer Newsflash 183 for a more general article on this investment allowance. This article deals directly with the amount of advertising material encouraging people to buy cars before the allowance finishes at 30th June, 2009.

Unfortunately, the law covering this has not made it through Parliament yet and you only have to look at the alchopops debacle to see that nothing is certain. It was put before the house of representatives on 19th March, 2009 for its first reading and has not progressed. On 31st March Parliament went into recess and will not sit again until the 12th May. At this time the budget will take priority yet the Investment allowance bill has to get through both the house of representatives and the Senate. There is a good chance that by the time the 30th June 2009 deadline is reached you will not know whether the bill will ever become law. So if you are only updating for the sake of the allowance you are taking a bit of a risk. Let's hope it gets through in enough time for you to make a decision before 30th June, 2009. It doesn't matter if the dealer is out of stock as long as you have committed and take delivery before 1st July, 2010.

Here are some basics, relevant to cars, from the Explanatory Memorandum and the bill that was presented to Parliament, this is not necessarily how it will end up.

- 1) It does not apply to cars that will be claimed under the 5,000km method.
- 2) The car must cost you over \$1,000 if you are a small business entity ie turnover of less than \$2mil or over \$10,000 for non small businesses. If you are entitled to claim GST input credits then this amount is the net of GST figure.
- 3) The car must be brand new but note section 41-20 (3) allows for reasonable testing or trialling so demonstrator vehicles may still be considered new it is all a matter of what is reasonable. In the explanatory memorandum it states that an asset is still brand new if it has only been held as trading stock or held ready for resale. It gives an example of a demonstrator vehicle that the dealer used to drive to and from work and says the allowance is not available so if you are going to buy a

demonstrator you best get a certificate that it has only been used for test drives and make sure there are only a “reasonable” (to quote the Bill) number of kilometres on the clock.

- 4) To get the full 30% deduction you need to have made a commitment by the 30th June, 2009 (an option will not suffice) and take delivery before 1st July, 2010. After those dates the allowance is only 10% and only for goods committed to before 31st December, 2009 and installed by the 2011-2012 financial year. The year you claim the allowance in your tax return is the year that it is first used in the business.
- 5) The allowance is not reduced by any private use of the asset providing it is principally used in a business.
- 6) The allowance only applies to assets used in a business so it is not available to passive rental property investors though in some circumstances holding rental properties can be considered a business but you need to have a lot and manage them yourself.
- 7) Even though the taxpayer will receive an outright tax deduction of 30% of the purchase price (net of GST if an input credit has been claimed) they will still be able to claim depreciation on 100% over the vehicle’s effective life.
- 8) It is the person that is entitled to claim depreciation for the car that is entitled to the allowance. This becomes a little messy in partnerships and the partnership agreement needs to be referred to, to decide who is entitled to the depreciation on the asset and so the allowance. In the case of a leased vehicle it is the lease company who is entitled to the depreciation unless the car is a luxury car then it is the lessee who is entitled to the depreciation so the lessee in these circumstances would be entitled to the allowance. The luxury car limit for 2009 is \$57,180 (Reference TD 2008/17).
- 9) If your car exceeds the luxury car limit then you can only claim 30% of the luxury car limit so for 2009 you can only claim \$17,154.
- 10) There is no claw back of the allowance once the car is sold or its use is no longer principally for business unless it was not bona fide purchased for the business in the first place.
- 11) Note the allowance is a tax deduction not a tax credit so if the deduction reduces your income below the taxable threshold it is wasted and you will not be able to get any cash back for it though it can create a taxable loss you can carry forward after offsetting exempt income and maybe helpful to you in the following year.

Now let’s do a worked example of just what this means to you in the end. Assume you are considering updating a car you purchased late 2005 for around \$20,000 after GST credits. It is now written down to \$9,147 on a diminishing basis at 18.75% pa. The dealer will give you \$10,000 for it as a trade in but of course you will have to remit 1/11th of that to the ATO in GST. The new car you want to buy will cost \$25,500 on road and including GST and you are in the 31.5% tax bracket.

For simplicity we will assume the new vehicle is paid for in cash but please consider that there is another cost of this transaction and that is you have probably come close to paying off your current vehicle so you are committing yourself to probably another 5 years in interest repayments either because you borrow to buy the car or because using your spare cash to purchase the car will mean you will have to borrow for other reasons in the future or because you could have invested this money.

If you had kept the old vehicle over the next 5 years depreciation would have been a lot less than the new car not just because the depreciation is on a diminishing value method but because assets purchased after 10th May, 2006 are entitled to a higher rate of depreciation, 25% in relation to cars, when using the diminishing value method.

	Old Car	New Car	Difference
Year 1	1,715	5,809	4,094
Year 2	1,393	4,357	2,964
Year 3	1,132	3,267	2,135
Year 4	920	2,450	1,530
Year 5	748	1,838	1,090
Value of vehicle in 5 years both based on 18.75% dim value	3,239	8,227	4,988

	Cash Inflow		Cash Outflow
Trade In	10,000	GST on Trade	909
Tax Refund on Loss on Trade	18		
GST on Purchase (not on Rego)	2,264	Purchase	25,500
Tax Refund on Extra Deprn	3,721		
Increased sales value in 5 years	4,988		
Tax credit for Investment Allow.	2,196		
Total	23,187	Total	26,409

Even with the incentive you are still going to be out of pocket over all by \$3,220 to buy the new car rather than keep the old one. So if you think the extra repairs you may incur to run an older car would be less than this you are better off keeping the old car.

Seminars

Become an Investment Property Tax Expert- Cost \$495 Directed at Accountants, Speaker Julia Hartman Ring (03) 9328 2688 to book. Presented by CPDS
 Canberra - 7th May, 2009 9.30am to 4pm
 Adelaide – 21st May, 2009 9.30 am to 4pm
 Sunshine Coast Qld – 12th June, 2009 9.30am to 4pm

Year End Tax Strategies – Free - Speakers will be Julie Lockeridge and Julia Hartman
 Tuesday 9th June, 2009 6.30pm Tenterfield
 Wednesday 10th June, 2009 6.30pm Stanthorpe

Need the Answer To A Tax Question Fast?

No appointment necessary. Simply go to www.bantacs.com.au and click on askbantacs. For \$39.95 get a comprehensive written answer to your question. Tip – before you ask check out the notice board, the answer may already be there, for free.

Saving Tax on Your Investment Property – The Book

Combining Noel Whittaker's easy reading style with Julia Hartman's mind numbing attention to detail you can purchase it online by going to: www.bantacs.com.au/property.php \$29.95 plus \$5.95 postage – tax deductible of course!

Back Issues & Booklets

To obtain free back issues of the fortnightly BAN TACS Newsflash or any of the following booklets visit our web site on www.bantacs.com.au. You can also subscribe to our Newsflash reminder.

<i>Alienation of Personal Services Income</i>	<i>Buying a Business</i>	<i>Capital Gains Tax</i>
<i>Claim Your Trip Around Australia</i>	<i>Claimable Loans</i>	<i>Claiming a Motor Vehicle</i>
<i>Defence Forces [Military]</i>	<i>Death and Taxes</i>	<i>Division 35</i>
<i>How Not To Be A Developer</i>	<i>Divorce</i>	<i>FBT for PBIs</i>
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<i>Overseas Backpacker Fruit Pickers</i>	<i>Small Business</i>	<i>Subcontractors</i>
<i>Secret Plans and Clever Tricks</i>	<i>Teachers</i>	<i>Wage Earners</i>
<i>Self Managed Superannuation Funds</i>	<i>Year End Tax Strategies</i>	<i>Professional Practices</i>

Disclaimer: Please note in many cases the legislation referred to above has only just passed through parliament. The full effect is not clear yet but it is already necessary to make you aware of the ramifications despite the limited commentary available. On the other side of the coin by the time you read this information it may be out of date. The information is presented in summary form and intended only to draw your attention to issues you should further discuss with your accountant. Please do not act on this information without further consultation. We disclaim any responsibility for actions taken on the above without further advice as to your particular circumstances.